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                    IN THE UNITED STATES DISTRICT COURT
                         SOUTHERN DISTRICT OF TEXAS
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                              HOUSTON DIVISION
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     UNITED STATES OF AMERICA
                                         ) CRIMINAL ACTION NO.
     VS.
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                                         ) 4:16-CR-408-2
 6
     THOMAS GALEN MASSEY
                                         ) 9:58 A.M.
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                                 SENTENCING
                  BEFORE THE HONORABLE VANESSA D. GILMORE
 9
                        UNITED STATES DISTRICT JUDGE
                              OCTOBER 12, 2021
10
     APPEARANCES:
11
     FOR PLAINTIFF:
12
     MR. JUSTIN R. MARTIN
     United States Attorney's Office
     1000 Louisiana, Suite 2300
13
     Houston, Texas 77002
     (713)567-9000
14
    FOR DEFENDANT:
15
     MR. MIKE DEGEURIN, SR.
     MR. GEORGE MICHAEL DEGEURIN, JR.
16
     Foreman, DeGeurin, DeGeurin
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     300 Main Street, 3rd Floor
     Houston, Texas 77002
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18
19
     COURT REPORTER:
     Heather Alcaraz, CSR, FCRR, RMR
2.0
     Official Court Reporter
     515 Rusk, Suite 8004
21
     Houston, Texas 77002
      (713)250-5584
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23
     Proceedings recorded by mechanical stenography, transcript
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     produced by computer.
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THE COURT: United States of America versus Thomas 09:58:39 2 Massey. For the United States? 09:58:40 3 MR. MARTIN: Justin Martin. 09:58:45 4 THE COURT: Mr. Martin. 09:58:48 5 For the defendant? 09:58:48 6 MR. DEGEURIN, SR.: Mike DeGeurin, Your Honor. 09:58:50 7 THE COURT: Hi, Mr. DeGeurin. Where is Mr. Massey? 09:59:05 8 (Defendant approaches.) 09:59:05 9 THE COURT: All right. We are here this morning for 09:59:0510 sentencing. 11 Mr. Martin, have you seen the presentence 09:59:1012 13 investigation report and the addendum to that report? 09:59:2114 MR. MARTIN: Yes, Your Honor. 09:59:2215 THE COURT: And, Mr. DeGeurin, did you and your client 16 get a chance to review the presentence investigation report and 17 the addendum to that report? 09:59:3018 MR. DEGEURIN, SR.: Yes, Your Honor. 09:59:3119 THE COURT: Then the presentence investigation report 20 and the addendum will be placed into the record under seal. In the event there is any appeal of this case, the only portion 21 that will not be disclosed will be that portion that contains a 22 sentencing recommendation from the probation department to the 23 2.4 Court. There were no objections by the United States or by 09:59:4425

the defendant.

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Mr. DeGeurin, did you find any factual inaccuracies that could have an impact on sentencing?

MR. DEGEURIN, SR.: No, Your Honor.

THE COURT: All right. Then -- then the Court adopts the presentence investigation report and the addendum; finds that the statutory range of punishment is not more than five years; supervised release not more than three years; fine not more than \$250,000; restitution \$1,126,816.49; special assessment is \$100.

Under the sentencing guidelines, based on a total offense level of 27 and a criminal history category of one, provides for a guideline range of 60 months by statute; supervised release term is one to three years; fine range is 12,500 to 125,000; restitution is \$1,126,816.49; and special assessment is \$100.

All right. The United States has filed a motion for downward departure. Mr. Martin, do you want to be heard on that?

MR. MARTIN: Your Honor, I -- I, basically, stated the reasons in the motion. I'll just rely on the motion. The -- the defendant's substantial assistance was of a nature that I feel that he deserves a sentence of probation.

THE COURT: Okay. So help me understand this, because when you were here with -- for Mr. Grobson [sic], you told me he

was the least culpable of this entire conspiracy, and Mr. Grob 1 2 got 12 months and a day. MR. MARTIN: Because he --10:01:33 THE COURT: So tell me how -- wait, wait. I'm in the 10:01:33 middle of a sentence. So here's the Court's policy: Nobody 5 gets less time than the least culpable person. That's my 6 7 policy. So how are you here asking for probation for someone that's more culpable than the man who got 12 months and a day? 8 MR. MARTIN: Because Mr. Grob did not cooperate. 10:01:49 9 10:01:5210 THE COURT: Okay. 10:01:5911 MR. MARTIN: And Mr. Massey cooperated before Grob was 12 even charged, and it was because of Massey's cooperation that 13 Grob (indiscernible) --10:02:0614 THE COURT: You know what? Give me some -- a little 15 relief on the mask right now because I can barely understand you. 16 10:02:117 MR. MARTIN: I'm sorry. I said Massey was -cooperated before Grob was even charged --18 THE COURT: Uh-huh. 10:02:1619 10:02:1620 MR. MARTIN: -- and it was because of Massey's cooperation that Grob was able to be charged and four of the 21 22 other defendants. THE COURT: Oh, okay. Okay. Everybody else --10:02:2323 24 everybody else, you say, got charged because of Massey? 10:02:3025 MR. MARTIN: Other -- except for Andrew Farmer, who

was charged in the same indictment as Massey, Massey's 1 2 cooperation led to -- I mean, there were -- Eddie Austin, Carolyn Austin, Scott Sieck, and John Brotherton were all 3 partners --4 THE COURT: Uh-huh. 10:02:46 MR. MARTIN: -- in the organization, and they were not 10:02:46 7 charged in the original indictment because we didn't have sufficient evidence against them. But because of Massey's 8 cooperation, they were able to be charged. 9 Also, the only pump-and-dump scheme that was charged 10:02:5810 11 in the original indictment was Chimera Energy --THE COURT: Right. That's the one -- that's why the 10:03:0312 13 1 million for Mr. Massey. 10:03:0614 MR. MARTIN: But because of Massey's cooperation, we 15 identified 11 other pump-and-dump schemes that they had been 16 involved with and were able to include those in the indictment, 17 and there was one -- Valmie Resources, that was active when Massey was cooperating, and because of his cooperation, we were 18 able to get the SEC to shut down trading in that -- in that 19 20 stock --10:03:3621 THE COURT: Okay. 10:03:3622 MR. MARTIN: -- so that there were no more victims of that stock --23 THE COURT: I see. 10:03:3924 10:03:4025 MR. MARTIN: -- and that was also included in the

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indictment. So the cooperation was very substantial.
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                       THE COURT: Okay. And Mr. Grob didn't provide any
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             cooperation?
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                       MR. MARTIN: None. None at all.
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                       THE COURT: Nothing at all?
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                       MR. MARTIN: Correct.
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                       THE COURT: All right. The government's motion is
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             granted. The Court will take it into consideration in
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             determining what it believes to be the appropriate sentence in
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             this case.
                       All right. Mr. DeGeurin, would you like to speak on
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             behalf of your client, please?
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10:04:0213
                       MR. DEGEURIN, SR.: Briefly, Your Honor. I filed a
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             sentencing memorandum --
10:04:0515
                       THE COURT: I got it yesterday.
10:04:0616
                       MR. DEGEURIN, SR.: You got it, okay. It's a short
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            one.
                       THE COURT: Short. And the letters as well.
10:04:0818
                       MR. DEGEURIN, SR.: Okay. Thank you, Judge. I need
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             to change it. I said he was 49 years old. He's 51 years old.
10:04:1721
                       THE COURT: Okay. I don't even -- I didn't even catch
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             that. I -- only women lie about their age, Mr. DeGeurin.
                       MR. DEGEURIN, SR.: So we go back to the cooperation.
10:04:2923
                       THE COURT: Uh-huh.
10:04:3124
10:04:3125
                       MR. DEGEURIN, SR.: The prosecutor said 25 to 30 times
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we met. I was with Mr. Massey when we met.
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                       THE COURT: Okay.
10:04:40
                       MR. DEGEURIN, SR.: And Mr. Massey provided
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             information to the government, in addition to the questions they
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             were asking him, which involves the prosecution of many more
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             schemes. So I cannot tell you how -- how good friends, now,
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             Mr. Martin and I am because of these meetings, but --
                       THE COURT: A lot of meetings, huh?
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                       MR. DEGEURIN, SR.: A lot of meetings. That was
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             before the pandemic.
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                       THE COURT: Oh, I got you. Oh, yeah, because this has
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             been going on for a minute.
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10:05:1613
                       MR. DEGEURIN, SR.: Yeah. So I don't have much more
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             to add --
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                       THE COURT: Okay.
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                       MR. DEGEURIN, SR.: -- other than his -- his wife is
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            here, Judge, in the courtroom.
                       THE COURT: Uh-huh.
10:05:2818
10:05:2919
                       MR. DEGEURIN, SR.: But his daughter graduated from
             North Texas -- his children are very, very important to him, and
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             she graduated from North Texas University this year and got
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             married, and his son is -- has been accepted to college in --
             this isn't -- Birmingham?
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                  (Sotto voce discussion between defense counsel.)
10:05:5424
10:05:5425
                       MR. DEGEURIN, SR.: In Montebello [sic], which is near
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Birmingham, and these were what he's been dedicating his -- his 1 2 finances to and his time. 10:06:07 So --THE COURT: Yeah. I have one of those little broke 10:06:08 4 best friends, too. 5 MR. DEGEURIN, SR.: Okay. So his financial 10:06:13 7 situation -- because of the cooperation, he received threats --THE COURT: Uh-huh. 10:06:25 8 MR. DEGEURIN, SR.: -- from codefendants that have now 10:06:25 9 pled quilty. He lost his job. He lost his job that's in the 10 11 presentence report, and the letter from the reverend speaks 12 about he works like an auto mechanic at this time. So he 13 doesn't have a lot of money. 10:06:5414 THE COURT: So how we paying this money judgment? 15 This just a piece of paper? 10:06:5816 MR. DEGEURIN, SR.: Well, that's -- well, I don't want 17 to call it a piece of paper because we agreed to it back when he was doing well and working for the ranch -- the hunting ranch. 18 But you have some discretion about how he pays for that, Judge, 19 and on want you to take into consideration. He doesn't have 2.0 much money left, and -- so please take that in consideration. 21 I would like you to --10:07:3022 10:07:3123 THE COURT: What -- this money judgment is agreed, though, right? 24 10:07:3425 MR. DEGEURIN, SR.: I know.

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THE COURT: Okay. I just want to make sure. It
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             sounded like you were arguing against the money judgment.
                       MR. DEGEURIN, SR.: No. It's just that --
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                       MR. DEGEURIN, JR.: I put something in his ear about a
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             fine. I said, "Ask the judge not to impose a fine."
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                       THE COURT: Oh, oh, oh. Okay. I just wanted to
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             make sure because I mean, obviously, if there's a money judgment
             of this amount, a fine's kind of off the table. So I was trying
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             to make sure we weren't arguing against a money judgment because
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             I assumed that this was --
                       MR. DEGEURIN, JR.: No. That was me putting a whisper
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             in his ear right before we stood up to make sure that -- to ask
            for no fine so that all money could go towards the --
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10:08:0514
                       THE COURT: The restitution. I got you. Okay. Good
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            deal. I just want to make sure because --
10:08:0916
                       MR. DEGEURIN, SR.: And you see, Judge, your son is
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            better than you are and for good reasons. So --
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                       THE COURT: Time for us old dinosaurs to get out the
            way, huh? Okay.
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                       MR. DEGEURIN, SR.: So that's all I have to say,
             Judge.
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                       THE COURT: All right. Mr. Massey, here's the only
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             thing that bothers me: I looked at your statement for
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             acceptance of responsibility, and what you said was -- and this
             was a quote -- "I came to realize that those I had worked with
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were intentionally misleading potential investors." What does 1 2 that mean, "I came to realize"? You were there for four years. THE DEFENDANT: (Inaudible.) 10:08:40 3 MR. DEGEURIN, SR.: What did you mean by that? 10:08:42 4 THE COURT: What? 10:08:43 5 THE DEFENDANT: I can't hear --10:08:44 6 THE COURT: You can't hear me at all? 10:08:44 7 THE DEFENDANT: I can hear you now perfectly. 10:08:47 8 THE COURT: You said, in your statement for acceptance 10:08:48 9 10 of responsibility -- you were there for four years, and you wrote, "I came to realize that those I worked with were 11 intentionally misleading potential investors." When did you 12 13 come to realize it, on your one, two, three, four -- it took you four years to realize that? 14 10:09:0415 THE DEFENDANT: Yes, ma'am. They were very -- and 16 what we -- the group, the organization I was working with, you 17 can -- the partners were very, very -- not forthcoming on what was going on behind the scenes. 18 10:09:1719 THE COURT: Uh-huh. 10:09:1720 THE DEFENDANT: We didn't know -- like I, personally, did not know that they owned and controlled all the shares of 21 stocks in these companies when they started. 22 10:09:2423 THE COURT: Uh-huh. 10:09:2524 THE DEFENDANT: I was under the impression that this 25 was a legitimate job -- consulting job that I was doing with

these people, the reason being was because one of them was my 1 2 father's -- one of my father's best friends. He was an attorney from Lake Charles, and I believed him when he told me that, Hey, 3 we're doing everything above board. 4 It took a while for me to understand what was really 10:09:46 5 going on because, I mean, we weren't -- the other employees 6 7 weren't included in meetings about the sale of the stocks. THE COURT: Okay. 10:09:56 THE DEFENDANT: We were on the front side where we 10:09:57 9 were basically going -- they were asking us to basically monitor 10 11 what the CEOs were doing, make sure they were doing their jobs, make sure the day-to-day stuff -- paying their bills, making 12 13 sure that they were filing their reports in a timely manner and 14 not getting behind on any of that stuff. We weren't privy to 15 what was going on in the back end. 10:10:1916 THE COURT: Okay. 10:10:2017 THE DEFENDANT: I had actually resigned a year -almost a year before I was indicted from this group. 18 THE COURT: Right. In 2015, right? 10:10:2319 10:10:2620 THE DEFENDANT: I believe that was the time, yes, 21 ma'am --THE COURT: 10:10:2822 Yeah. 10:10:2823 THE DEFENDANT: -- and I was indicted in 2016. 10:10:2924 THE COURT: Okay. And so you didn't figure it out until right at the end, is what you're saying? 25

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THE DEFENDANT: Yes, ma'am, because every- -- the wheels were starting to come off the bus. So -- per se. Partners were arguing amongst each other -- or Mr. Farmer, Mr. Austin, Mr. Sieck, you know -- he would come into town from Florida, and it would -- it was just so crazy and hectic at the time because I guess they weren't selling as much stock. They were having companies getting shut down by the SEC, and it was -- I quess it was strenuous on them, and that's how they started letting us know more about what was going on.

THE COURT: Okay. Anything else you want to say for yourself, then, please, sir?

THE DEFENDANT: One thing I'd like to do is apologize to the people that were defrauded in this investment, as well as I'd like to apologize to my family and friends. It's -- it's been -- it's been rough on me, and I know it's been rough on other people as well, and I just -- I pray for leniency, and I hope that by me doing the -- what I thought was the right thing by bringing these other people to justice and helping and working with the U.S. attorney and helping him understand more about the other companies that were involved, that, hopefully, that -- I was trying to right a wrong.

THE COURT: All right. All right.

THE DEFENDANT: And I -- that -- I apologize to the Court, ma'am, for wasting y'all's time, but I thank y'all for being here for me.

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THE COURT:

Anything else from the United States?

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 $\boldsymbol{\mathsf{MR}}.$ $\boldsymbol{\mathsf{MARTIN}}\colon$ Nothing further.

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THE COURT: Okay.

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All right. The Court will state the sentence at this time. The lawyers will have a final opportunity to make any objections before the sentence is finally imposed.

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It is the judgment of this Court that the defendant,
Thomas Massey, is hereby sentenced to a term of three years of
probation. The defendant is before this Court having entered a
plea of guilty to conspiracy to commit wire fraud. The criminal
scheme perpetrated by the defendant and his accomplices centered
on securities fraud that defrauded investors of their money by
fraudulently manipulating the market price and demand for
various microcap securities, commonly referred to as "penny
stocks," which, after inflated, were dumped for financial gain.

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The defendant and his accomplices profited, and the investors lost millions of dollars. Massey's involvement in this case lasted from about May of 2011 until August of 2015 while he was an employee of the group. He was paid a salary by the group of approximately \$5,000 per month when he joined; ultimately increased to approximately \$10,000 per month.

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10:13:4222

He was a handler for the CEOs of the companies controlled by this group and would relay instruction from the partners to the CEOs and keep the CEOs on track to meet their targets for the story arcs written by codefendant Brother- --

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Brotherton so that the group could keep a steady flow of press releases going out to maintain public demand for the stock that the group was selling. Massey is responsible for defrauding investors of a total loss in this conspiracy of \$6,907,995.10.

In this case, the United States has filed a motion for

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context of that motion, met with the government over 25 times to provide significant information regarding the other one, two, three, four, five -- six codefendants in this case.

downward departure under 5K1.1. The defendant has, in the

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While the Court was initially concerned about his

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Grob, the United States has pointed out that Mr. Grob did not

culpability as it -- compared to that of codefendant Charles

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provide any assistance to the United States in this case and

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that all of the remaining indictments and the termination of the

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stock-trading platform by the SEC were the result of

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Mr. Massey's cooperation and assistance to the United States.

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sentence of probation believing that the defendant's cooperation

The motion for 5K was granted, and the Court imposes a

Upon release from imprisonment, the defendant shall be

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makes that sentence compliant with the purposes of the framework

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of 18, U.S.C., Section 3553.

10:15:4821

placed on supervised release -- I mean, while on probation, I'm

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sorry. While on probation, the defendant shall not commit

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another federal, state, or local crime, shall comply with the

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mandatory conditions of supervision as approved by the judicial

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conference and adopted by this Court and any other mandatory conditions required by law, including the following additional conditions: You must provide the probation office with access to any requested financial information and authorize the release of financial information. The probation office can share that financial information with the U.S. Attorney's Office.

You must not incur any new credit charges or open additional lines of credit without approval of the probation office. The defendant must also submit to substance abuse testing to determine if you have used a prohibited substance and pay the costs of testing, if financially able to do so.

The defendant is prohibited from employment in any fiduciary role during the term of supervision.

The defendant must pay restitution in the amount of \$1,126,816.49 due and owing to the victims listed in the attachment to the addendum in the PSR in this case. This amount is due jointly and severally with all codefendants under this docket number. It is further ordered the defendant shall pay to the United States a special assessment of \$100 due and payable immediately. The Court finds that the defendant does not have the ability to pay a fine. The Court will waive the imposition of a fine in this case.

The criminal monetary penalties are due as follows:

The defendant shall begin payment immediately to be paid in

monthly installments of no less than \$500 per month to commence

30 days after the start of the term of probation. Payment is to 1 2 be paid through the United States District Clerk's Office, Southern District of Texas. 3 Was there a forfeiture order in this, other than 10:18:04 this -- the money judgment, Mr. Martin? 5 MR. MARTIN: The money judgment is the forfeiture. 10:18:09 THE COURT: Okay. I just want to make sure. 10:18:11 7 Do you have -- know of any reason why the sentence 10:18:13 8 9 should not be imposed as stated? MR. MARTIN: No, Your Honor. 10:18:1710 10:18:1711 THE COURT: Mr. DeGeurin, do you know of any reason why the sentence should not be imposed as stated? 12 MR. DEGEURIN, SR.: No, Your Honor. 10:18:2213 THE COURT: All right. Then the sentence is imposed 10:18:2214 15 as stated. Mr. Massey, you can appeal your conviction if you 16 believe your guilty plea was somehow unlawful or involuntary or 17 if you think that there was some other fundamental defect in the proceedings that was not waived by you; however, a defendant can 18 waive his right to appeal as part of a plea agreement. You 19 waived your right to appeal. That waiver is generally 2.0 enforceable. 21 If you think your waiver is unenforceable for some 10:18:4122 23 reason, you can present that theory to the Court of Appeals. With few exceptions, any notice of appeal must be filed within 24 15 days of the date the judgment is entered in this case. 25

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you're without funds to hire an attorney to represent you, you
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             can apply to the Court for in forma pauperis status and counsel
             will be appointed for you. Do you understand me, sir?
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                       THE DEFENDANT: Yes, ma'am.
10:18:59
                       THE COURT: All right. The Court signed the order
10:19:00 5
             imposing the money judgment, which I understand is unopposed.
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                       Correct, Mr. DeGeurin?
10:19:05
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                       MR. DEGEURIN, SR.: That's correct, Judge.
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                       THE COURT: Anything else from the United States?
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                       MR. MARTIN: The United States moves to dismiss the
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             remaining counts, and I --
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                       THE COURT: Okay. You got an order for me, too?
10:19:1412
10:19:1613
                       MR. MARTIN: Yes, Your Honor.
10:19:1714
                  (Document handed to the Court.)
10:19:2215
                       THE COURT: Remaining Counts 1 and 10 through 14, and
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             16 through 17 are dismissed.
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                       And anything else from the defense, then?
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                       MR. DEGEURIN, SR.: No, Your Honor.
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                       THE COURT: All right. Thank you, guys.
10:19:5220
                       MR. DEGEURIN, SR.: Thank you.
       21
                   (Proceedings concluded at 10:19 a.m.)
       22
                                           -000-
       23
                       I certify that the foregoing is a correct transcript
             from the record of proceedings in the above matter.
       24
                                           /s/ Heather Alcaraz
       25
             Date: November 4, 2021
                                            Signature of Court Reporter
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Case 4:16-cr-00408 Doc	2nent 578 Filed on 11/04/21 in	abbc[5] 4/2185/92/16 5/19
		15/11
MR. DEGEURIN, JR.: [2] 9/3 9/10	2011 [1] 13/18 2015 [2] 11/19 13/18	above [2] 11/4 17/24
MR. DEGEURIN, SR.:	2016 [1] 11/23	abuse [1] 15/9
[26]	2010 [1] 11/23 2021 [2] 1/9 17/25	acceptance [2] 9/24 10/9
MR. MARTIN: [20]	2300 [1] 1/13	accepted [1] 7/22
THE COURT: [60]	25 [2] 6/25 14/7	access [1] 15/3
THE DEFENDANT: [14]	250-5584 [1] 1/21	accomplices [2] 13/11
10/2 10/5 10/7 10/14 10/19	27 [1] 3/12	13/16
10/23 11/8 11/16 11/19		ACTION [1] 1/4
11/22 11/25 12/11 12/22	3	active [1] 5/17
17/3	30 [2] 6/25 16/1	actually [1] 11/17
\$	300 [1] 1/17	add [1] 7/14
- ¹	3553 [1] 14/20	addendum [5] 2/13 2/17
\$1,126,816.49 [3] 3/9 3/15	3rd [1] 1/17	2/20 3/6 15/16
15/15	4	addition [1] 7/4
\$10,000 [1] 13/21	49 [1] 6/20	additional [2] 15/2 15/8
\$100 [3] 3/10 3/16 15/19	4:16-CR-408-2 [1] 1/5	adopted [1] 15/1 adopts [1] 3/5
\$250,000 [1] 3/9		after [2] 13/15 16/1
\$5,000 [1] 13/20 \$500 [1] 15/25	5	against [3] 5/8 9/2 9/9
\$6,907,995.10 [1] 14/4	51 [1] 6/20	age [1] 6/22
φυ, 9υ7, 993.10 [1] 14/4	515 [1] 1/20	agreed [2] 8/17 8/23
-	5584 [1] 1/21	agreement [1] 16/19
- o0o [1] 17/22	567-9000 [1] 1/14	Alcaraz [2] 1/19 17/25
/	5K [1] 14/17	AMERICA [2] 1/4 2/1
/	5K1.1 [1] 14/6	amongst [1] 12/3
<u>/s [1] 17/25</u>	6	amount [3] 9/8 15/14 15/16
1	60 [1] 3/13	Andrew [1] 4/25
1 million [1] 5/13	655-9000 [1] 1/18	another [1] 14/24
10 [1] 17/15	7	anything [4] 12/10 13/1
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10:19 [1] 17/21	713 [3] 1/14 1/18 1/21	apologize [3] 12/12 12/14 12/23
11 [1] 5/15	77002 [3] 1/13 1/17 1/21	appeal [5] 2/21 16/15 16/19
12 [3] 1/9 4/2 4/8	8	16/20 16/24
12,500 [1] 3/15	8004 [1] 1/20	Appeals [1] 16/23
125,000 [1] 3/15 14 [1] 17/15	9	APPEARANCES [1] 1/10
15 [1] 16/25		apply [1] 17/2
16 [1] 17/16	9000 [2] 1/14 1/18	appointed [1] 17/3
17 [1] 17/16	9:58 [1] 1/6	approaches [1] 2/9
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